

## Maine Revised Statutes

### Title 4: JUDICIARY

#### Chapter 27: JUDICIAL RETIREMENT ON OR AFTER DECEMBER 1, 1984

##### §1357. PAYMENT OF REGULAR RETIREMENT ALLOWANCES

**1. Normal method of payment.** Payment of all regular retirement allowances shall begin on the first day of the month following the month in which the member becomes eligible to receive payment of regular retirement allowance under section 1351 or 1353, subsection 7. A full month's allowance shall be paid to the beneficiary or estate of the recipient for the month in which the member dies. All regular retirement allowances shall be paid for life in equal monthly installments, unless an alternative method of payment under one of the options of subsection 2 has been elected.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who is the recipient of a retirement allowance under the normal method of payment, the surviving spouse who is the named beneficiary at the date of retirement shall become entitled to 1/2 of the amount being paid at the time of the member's death which payment shall continue for the remainder of the spouse's lifetime.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who becomes the recipient of a disability retirement allowance, the surviving spouse who is the named beneficiary shall become entitled to 1/2 the amount that the member would have been entitled to as a service retirement allowance under the normal method of payment as of the date of the member's death.

[ 1989, c. 133, §34 (AMD) . ]

**2. Optional methods of payment.** In lieu of payment under subsection 1, a qualifying member may elect to receive a regular retirement allowance under one of the options set out in this subsection. The optional allowance is a reduced allowance computed actuarially on the basis of the option selected.

The qualifying member may elect one of the options by written request to and approval of the executive director prior to the commencement of payment of a regular retirement allowance. The election may be revoked by written notice to the executive director at any time before the regular retirement allowance commences.

For the purposes of this subsection, "qualifying member" means a member or a former member who is receiving a disability retirement benefit.

A. Under Option 1, the qualifying member may elect to have a reduced retirement benefit paid to the qualifying member while alive and at the qualifying member's death to have the excess, if any, of the qualifying member's accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary that the qualifying member has nominated by written designation duly notarized and filed with the executive director or, if no one has been nominated as beneficiary, to the qualifying member's estate. [1999, c. 744, §17 (AFF); 1999, c. 744, §1 (RPR).]

B. Under Option 2, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary that the qualifying member has nominated by written designation duly notarized and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member. [1999, c. 744, §17 (AFF); 1999, c. 744, §1 (RPR).]

C. Under Option 3, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary that the qualifying member has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member. [1999, c. 744, §17 (AFF); 1999, c. 744, §1 (RPR).]

D. Under Option 4, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under paragraphs B or C payable to the beneficiary that the qualifying member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board of trustees, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System. [2007, c. 491, §54 (AMD).]

E. Under Option 5, the qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board of trustees, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System. [2007, c. 491, §55 (AMD).]

F. Under Option 6, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [2007, c. 491, §56 (AMD).]

G. Under Option 7, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [2007, c. 491, §57 (AMD).]

H. Under Option 8, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have some benefit other than that available under paragraph B or C payable to the beneficiary that the member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that

the qualifying member would have received without optional modification. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [1999, c. 744, §1 (NEW); 1999, c. 744, §17 (AFF).]

[ 2007, c. 491, §§54-57 (AMD) .]

**3. Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 2, paragraphs B to H, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the Maine Public Employees Retirement System. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit. [2009, c. 415, Pt. A, §3 (RPR).]

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 2, paragraph E has been elected, the new beneficiary's benefit must become effective on the same date. [2009, c. 415, Pt. A, §3 (RPR).]

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

(1) The date of the new beneficiary's death; or

(2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2). [2009, c. 415, Pt. A, §3 (RPR).]

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C. [2009, c. 415, Pt. A, §3 (RPR).]

[ 2009, c. 415, Pt. A, §3 (RPR) .]

**4. Notice to spouse.** A qualifying member who is married on the effective date of retirement, who elects the method of payment under subsection 1 and is not covered by the automatic spousal benefits provisions in that subsection, or who elects a method of payment other than that provided under subsection 1 and who designates a beneficiary other than the qualifying member's spouse must notify the spouse that the spouse is not the beneficiary. Proof that the spouse has been notified must be provided:

Payment of the qualifying member's service benefit may not commence until certification has been received by the executive director.

A. By written certification of the spouse, duly notarized, on a form provided or specified by the Maine Public Employees Retirement System indicating that notice has been received from the qualifying member; or [2007, c. 491, §59 (AMD).]

B. When notice has been given, but certification by the spouse has not been provided, by written certification of the qualifying member, duly notarized, on a form provided or specified by the Maine Public Employees Retirement System indicating that notice has been given to the spouse. [2007, c. 491, §60 (AMD).]

[2007, c. 491, §§59, 60 (AMD).]

#### SECTION HISTORY

1983, c. 853, §§C15,18 (NEW). 1983, c. 863, §§B35,B45 (AMD). 1985, c. 475, §§1,4 (AMD). 1989, c. 133, §34 (AMD). 1999, c. 744, §§1,2 (AMD). 1999, c. 744, §17 (AFF). 2007, c. 491, §§54-60 (AMD). 2007, c. 523, §1 (AMD). 2009, c. 415, Pt. A, §3 (AMD).

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